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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,602	01/15/2004	Michelle Kampel	884.0215USU	5377

7590 01/12/2005

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EXAMINER

DOAN, ROBYN KIEU

ART UNIT PAPER NUMBER

3732

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,602

Applicant(s)

KAMPEL ET AL.

Examiner

Robyn Doan

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-- **The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25 is/are allowed.
- 6) ☒ Claim(s) 1-17, 19-22 and 24 is/are rejected.
- 7) ☒ Claim(s) 18 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 01/15/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 and 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Thaler (4699159).

With regard to claims 1, 3 and 5-6, Thaler discloses a hair curler (fig. 4) comprising a cylindrical body (10) having an outer layer (22), a first flanged end (18) and a second flanged end (16), both ends being made from a thermally nonconductive material (col. 3, lines 60-65), a plurality of nylon flocking fibers (24) with a plurality of protrusions (col. 4, lines 19-21) being disposed on an adhesive layer which is disposed on the outer layer of the body (col. 4, lines 27-30) and a material being disposed in the flocking and substantially covering the outer layer, the material retaining thermal energy to assist in styling of the hair (col. 3, lines 20-22).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4, 7-17 and 19-22, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler in view of Takimae (4740669).

With regard to claims 2, 4, 7-17 and 19-22, 24, Thaler discloses a hair curler comprising all the claimed limitations in claim 1 as discussed above except for the material being ceramic material and the ceramic being in the flocking and also the ceramic material being in different forms such as powder, particles, ceramic based paint with titanium dioxide, the weight of the ceramic material. Takimae discloses a curling iron (fig. 2) comprising a body (2) having an outer layer being coated with ceramic (col. 1, lines 59-65). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the ceramic coating as taught by Takimae into the curler of Thaler for the purpose of radiating thermal energy at a predetermined wavelength to assist in styling of the hair. It is noted the process of how ceramic being coated such as being painted is not given any patentable weight in an article claim and also the form of the ceramic being solid or powder, the form of the paint being enamel or having a rubberized texture would be an obvious matter of choice to a person in an ordinary skill in the art. And it would have been obvious to one having an ordinary skill in the art at the time the invention was made to construct the weight of the ceramic

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material being about one to fifty percent of a total weight of the paint, since such a modification would have involved a mere change in the size of the component.

Claims 18 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 25 is allowable over prior art of record.

The following is an examiner's statement of reasons for allowance: none of prior art of record taken alone or in combination show a cylindrical roller body having a diameter, a height, an outer winding surface, a first and second end each having an end cap, a comb having one or more teeth, the comb being connected to the outer winding surface, a flocking being substantially around the outer winding surface, the flocking having a plurality of protrusions, the protrusions providing a texture to the hair being curled around the flocking and a paint being coated to the outer winding surface, the paint having ground ceramic powder and titanium dioxide therein and wherein the paint being selected from a group of hard enamel, a rubberized texture and any combination thereof.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fineman and Graves are cited to show the state of the art with respect to a hair curler with ceramic outer surface.

The drawings 01/15/2004 have been approved by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (703) 306-9182. The examiner can normally be reached on Mon-Fri 9:30-7:00; alternate Mondays off.

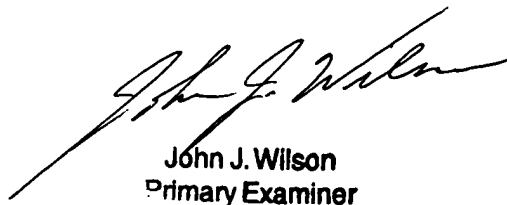
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (703) 308-2582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robyn Doan
Examiner
January 6, 2005



John J. Wilson
Primary Examiner